

First Action Interview Pilot Program Pre-Interview Communication	Application No. 10/530,192	Applicant(s) JANSEN ET AL.	
	Examiner LAWRENCE N. LARYEA	Art Unit 3768	Page 1 of 2

-The MAILING OR NOTIFICATION DATE of this communication appears on the cover sheet with the correspondence address -

THE SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **ONE MONTH OR THIRTY (30) DAYS**, WHICHEVER IS LONGER, FROM THE MAILING OR NOTIFICATION DATE OF THIS COMMUNICATION.

This time period for reply is extendable under 37 CFR 1.136(a) for only ONE additional MONTH.

This communication constitutes notice under 37 CFR 1.136(a)(1)(i).

Applicant must, within the time period for reply, file: (1) A letter requesting not to have a first action interview; (2) A reply under 37 CFR 1.111 waiving the first action interview and First Action Interview Office Action; or (3) An Applicant Initiated Interview Request Form (PTOL-413A) electronically via EFS-Web, accompanied by a proposed amendment or arguments, and schedule the interview within 2 months from the filing of the request. A failure to respond to this communication will be treated as a request not to have an interview. If applicant waives the First Action Interview Office Action, the instant Pre-Interview Communication is deemed the first Office Action on the Merits. The next subsequent Office action may be made final if appropriate. See MPEP 706.07(a).

Disposition of Claims

- 3) ☒ Claim(s) 1-5,7-20 is/are pending in the application.
 3a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 4) ☐ Claim(s) _____ is/are allowed.
- 5) ☒ Claim(s) 1-5,7-20 is/are rejected.
- 6) ☐ Claim(s) _____ is/are objected to.
- 7) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 8) ☐ The specification is objected to by the Examiner.
- 9) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 10) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 11) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

Contact Information

Examiner's Telephone Number: (571)272-9060
 Examiner's Typical Work Schedule: 9:30 a.m.-5:30 p.m. EST
 Supervisor's Name: Long Le
 Supervisor's Telephone Number: 571-272-0823

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06/04/2010</u> | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) <input type="checkbox"/> Notice of Informal Patent Application
6) <input type="checkbox"/> Other: _____ |
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Notification of Rejection(s) and/or Objection(s)

#	Claim(s)	Reference(s) (if applicable)	Rejection Statutory Basis	Brief Explanation of Rejection
1	1-4	A,B	103(a)	Reference A teaches in Claim 1 recites "sensing apparatus (16), position calculator (processor, 18), a source of posture data (memory), a posture data correction calculator (I/O, Fig. 1) and display (monitor) see (Paragraph [0063])"
2	5	A,B	103(a)	registration tool. See Paragraphs [0069],[0025],[016]-[0017]
3	7-20	A,B	103 (a)	A does not disclose the bone is pelvic bone and the position and orientation of the reference tool.
		A,B		B teaches this limitation at figures 8 and 9,. It would have been obvious to use A's apparatus of in B in order to improve the accuracy and even the surgical outcome of the hip procedures (See Abstract, Fig 8,9 and para 6)

Expanded Discussion/Commentary

	Note: Claim 1, line 13, it is unclear what applicant meant by the limitation "a source of posture" and Claim 1, at line 10 is objected to under Rule 75 for failing to have improper antecedence for "position and orientation". Also at Claim 1, it is unclear how the "posture data correction calculator" provides a display..., and it is unclear what function the "posture data correction calculator" actually performs
	Note: Claim 7 is objected to under Rule 75 for failing to have improper antecedence for "the actabulum" and "the current implant"
	Note: Claim 16 is objected to under Rule 75 for failing to have improper antecedence for "the anterior-superior iliacc spines", "the pubic tubercles"
	Note: Claim 17 is objected to under Rule 75 for failing to have improper antecedence for "the outmost points"
	References C,D,E,F,G and J teach related invention

DATE:
6/21/2010

/Eric F Winakur/
Primary Examiner, Art Unit 3768